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ABSTRACT

This instructional packet was designed for secondary school students in St. Louis, Missouri, to promote their understanding of the city's court-ordered school desegregation plan. An abridged and edited version of the Court of Appeals brief for the Liddell v. the St. Louis Board of Education case is presented in the packet. The brief includes a timetable of events and related court cases, background information on school desegregation, a summary of events and actions, and the guidelines established by the Court for the desegregation plan. Three related newspaper articles, a chart of students bused to St. Louis schools, three cartoons, and a glossary of terms are also included. (MK)

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DESEGREGATION INSTRUCTION UNIT

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SECONDARY SCHOOL

STUDENT PACKET

UD021225

St. Louis Public Schools
1980

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SECONDARY STUDENT PACKET

FOREWORD TO THE STUDENT

On March 3, 1980, the Eighth District Circuit Court of Appeals ordered the St. Louis Board of Education to begin immediate preparations to develop a system-wide plan that would reduce racial isolation in the system's schools. The Plan was to be completed and submitted to the district court no later than May 2, 1980.

Many changes had to be made as a result of the court's action and the acceptance of the Desegregation Plan submitted by the St. Louis School system.

In order to help you understand the changes that have taken place and those that will take place in the future, a unit on the Desegregation Issue has been prepared especially for you. If you follow the directions of your teacher carefully and complete the activites of this unit, many questions you may have had concerning desegregation will be answered.

OBJECTIVES

Secondary Schools

1. Students will take the pre-test provided.
2. Students will engage in as many of the provided activities in the Desegregation Unit as possible.
3. Students will understand the steps which led to the desegregation court order.
4. Students will understand the provisions of the court order.
5. Students will take a post-test.

AN ABRIDGED AND EDITED VERSION OF THE COURT BRIEF,

LIDDELL ET AL. V. THE ST. LOUIS BOARD OF EDUCATION

TIMETABLE OF EVENTS AND

RELATED COURT CASES

Below is a list of laws and court cases that deal directly or indirectly with events that led to the desegregation of the St. Louis Public Schools in September, 1980. Cases directly related to St. Louis appear in italics.

1847 - Missouri State Constitution - stated that no person shall keep or teach in any school for the instruction of Negroes or Mulattoes

1865 - Missouri Legislature enacted a law allowing the creation and maintenance of separate public schools for Blacks

1896 - Plessy v. Ferguson - sustained a Louisiana law that required "separate but equal" accommodations for white and black railroad passengers . . . made a distinction between political and social equality by sustaining "political but not social" equality as granted by the Fourteenth Amendment

1938 - Missouri ex rel. Gaines v. Canada - held that in the absence of separate but equal facilities, the state must allow black law students to be admitted to the existing state law schools

1948 - Sipuel v. Oklahoma - upheld the Gaines case

1950 - Sweatt v. Painter - required admission of blacks to the University of Texas Law School, even though Texas had established a law school for blacks. The court found that the black law school did not exhibit "substantial equality in educational opportunities."

1950 - McLaurin v. Oklahoma State Regents - the court held that the requirement that a black student admitted to a state university program not offered at the black university being required to sit in separate sections, adjoining classrooms, and separate facilities was unconstitutional

1954 - Brown v. Board of Education I (Topeka) - abolished the doctrine of "separate but equal."

1955 - Brown v. Board of Education II (Topeka) - imposed duty on the state to abolish segregated schools and to provide racial nondiscriminatory schools

1963 - Gass v. Board of Education, Knoxville - struck down transfer plans that led to segregated schools

1968 - Green v. County School Board (New Kent County, Virginia) - struck down "freedom of choice" attendance plans that led to segregated schools

1971 - Swann v. Charlotte - Mecklenburg (North Carolina) -

- allowed the use of racial quotas
- allowed the existence of one-race schools within a district of mixed populations
- allowed the gerrymandering of attendance zones, clustering, pairing or grouping of schools to transfer blacks out of previously segregated schools
- allowed busing of students to obtain desegregation

February 18, 1972 - Concerned Parents of North St. Louis filed suit in the United States District Court for the Eastern District of Missouri

April 19, 1972 - Board of Education denies the charges brought by the suit

October 3, 1973 - Court accepts the suit as a class action

December 1, 1973 - Deadline for becoming a party in the suit

June 7, 1974 - Stipulations filed

1974 - Milliken v. Bradley (Milliken I) - Supreme Court overturned a District Court requirement for inter-district bussing, without a finding of an interdistrict violation must show a constitutional violation within a district that produced a segregation effect in another district

1975 - Keys v. School Dist. #1, Denver - first major "Northern" case - provided guidelines that required city-wide desegregation on the basis of a segregated sub-district

December 14, 1975 - Consent Decree approved by the court

January 16, 1976 - Deadline for filing objections to the Consent Decree

September 1976 - Implementation of Consent Decree

December 13, 1966 - Reversal of district court on Caldwell intervention

February 25, 1977 District court approval of Caldwell group to intervene

February 28, 1977 - March 10, 1977 Board of Education submitted plan for reducing racial isolation in the city's secondary schools within the guidelines of the consent decree

April 1977 - *Hearings are held on the Plan submitted by the Board of Education*

Summer 1977 - *Additional parties are added to the defendant side:*

- *State of Missouri*
- *State of Missouri Board of Education*
- *Commissioner of Education of the State of Missouri*

July 17, 1977 - *Hearings are held on Plan submitted by the Board of Education*

October 17, 1977 - May 26, 1978 *Trial is held*

1979 - Milliken v. Bradley (Milliken II) - Supreme Court held that remedial education was a valid remedy as part of a desegregation decree and the state can be ordered to share the costs of desegregation

1979 - Columbus Board of Education v. Penick)
1978 - 1979 - Dayton Board of Education v. Brinkman) Court further spelled out various remedies for segregation
1979 - Pasadena Board of Education v. Spangler)

April 12, 1979 - *District court hands down decision favorable to the Board of Education*

Concerned Parents of North St. Louis appeal the district courts decision

March 3, 1980 - *District court decision reversed by the Eighth U.S. Circuit Court of Appeals - Board ordered to submit a Plan that will desegregate the system's schools by May 2, 1980*

May 2, 1980 - *Board of Education submits its Plan to the district court*

May 24, 1980 - *District court accepts with some modifications the Plan submitted by the Board of Education that will desegregate the city's schools for the 1980-1981 school year*

BACKGROUND INFORMATION FOR THE

DESEGREGATION INSTRUCTIONAL UNIT

In 1847, fourteen years before the Civil War started, there appeared in the Missouri Constitution a law which provided: No person shall keep or teach any school for the instruction of Negroes or Mulattoes. By 1865, near the close of the Civil War, the Missouri Legislature enacted legislation that allowed for the creation and maintenance of separate public schools for blacks. This legislation created separate funding, separate enumerations, separate consolidated "colored" school districts and the interdistrict transfer of black students.

Under the state-mandated segregated system, white students were generally assigned to schools in their neighborhoods. Black students attended schools in the "core" of the city. Those blacks residing outside the "core" were bused into the black schools; for them there were no neighborhood schools. Separate overlapping attendance zones were maintained for black and white students. Black students from some suburban St. Louis county school districts were also bused into the City's black schools because state law and practice prohibited them from attending their local (white) schools. The black schools were staffed by black teachers, administrators and nonprofessionals; the white schools by white personnel.

In 1954, the Supreme Court issued the Opinion in Brown v. The Board of Education (Topeka, Kansas) that paved the way to desegregate the nation's public schools that were not integrated:

> "This case tested the validity of State laws providing for racial segregation in the public schools. The Court reversed the doctrine of Plessy v. Ferguson that the Fourteenth Amendment does not outlaw segregation so long as equal facilities are provided for each race. The Court has ruled that separate educational facilities are inherently unequal."

As a result of the decision of Brown v. the Board of Education, the St. Louis Board of Education declared that it would begin a plan designed to desegregate its system. The heart of the plan was said to be the "neighborhood school concept." (A school that serves a specific geographic area - usually in fairly close proximity to that school.) School attendance zones were redrawn and students were generally assigned to schools close to their homes. The zones were nearly identical with the boundaries of racially identifiable neighborhoods. Moreover, a "continuation transfer" option was made available to all students then enrolled, permitting them to remain at the school in which they were then enrolled until graduation, unless overcrowding would result.

The new plan did not change the segregated nature of the St. Louis school system. Schools that had all black student and faculty populations prior to Brown continued to be all black or virtually all black after the 1955 plan went into effect. Most of the schools that had been white before the Brown decision remained white. Those white schools that were located in neighborhoods that became black, turned all black after the plan was put into effect.

Numerous lawsuits to desegregate the schools were filed by parents with black children enrolled in the St. Louis public schools from approximately 1958 through the 1960s. For one reason or another, none of the suits brought about the action desired by the plaintiffs.

On February 18, 1972, Craton Liddell, his mother, and other members of the Concerned Parents of North St. Louis and their children brought suit in the United States District Court for the Eastern District of Missouri seeking to represent the class of black children in the St. Louis school system. In their suit, they stated that the Board of Education and its administrators had "caused and continued" racial segregation and discrimination in the operation of the public schools of the City of St. Louis, in violation of the Fourteenth Amendment.

Ninety years after Missouri first required separate schools, the United States Supreme Court, in the Brown v. Board of Education (Topeka, Kansas) decisions, found that segregated school systems were providing an inferior education to black children. It held that such systems must be disestablished with all deliberate speed. As a result of these decisions, the Missouri laws requiring separate schools were repealed or declared inoperative. The St. Louis Board of Education's response to Brown was to adopt a "neighborhood school plan." Now, twenty-six years later, St. Louis elementary and Secondary schools remain segregated because of the nature of neighborhoods.

The St. Louis Board of Education failed to take effective measures to desegregate the school system in the years immediately following Brown I and has subsequently enforced policies with respect to the assignment of the students, the transportation of students, the assignment of personnel and the construction of school facilities which cannot be reasonably explained without reference to racial concerns and which have contributed substantially to continuing segregation in the school system. This failure resulted in the beginning of this action in 1972.

Since 1972, the Board of Education has taken some steps to disestablish the dual system. These include the adoption of an incremental faculty desegregation plan and the opening of several specialized and magnet schools, some of which are integrated.

In our judgement, these steps, while meaningful, are not adequate to establish the existing segregated school system. Something more than this is clearly required. We thus have no alternative but again to return this to the district court with directions to order the Board of Education, in consultation with parties, a qualified expert and an interracial committee selected by the district court from all the elements of the community, to develop and implement a plan that will integrate the St. Louis Public Schools.

EVENTS AND ACTIONS

As a result of the action taken by the Concerned Parents of North St. Louis, the following events and actions took place between 1972 and March 3, 1980:*

1. For more than a year, the Concerned Parents and the Board of Education engaged in gathering information, data and documents that would support their positions (1972-1973).

2. The Board of Education attempted to have the following parties join in the suit in the early stages as defendants, the Governor, the State Attorney General, the Commissioner of Education of the State of Missouri, the State Board of Education, the St. Louis County Superintendent of Education and twenty school districts in the St. Louis County (Oct. 30, 1973).

3. The Board of Education and the Liddell group agreed to a Consent Decree which was approved by the court on December 24, 1975. This decree gave permission to establish magnet schools as a means of desegregating schools on a voluntary basis.

4. A second group of black parents (Caldwell) attempted to enter the suit along with the N.A.A.C.P. The district court denied this motion in August of 1975. However, the appeals court overruled the district court on December 13, 1976 and granted the request. Then the district court approved the intervention of the Caldwell group, February 25, 1977.

5. Various plans were submitted and examined that would reduce "racial isolation" (segregation), groups could not come to any agreement on a specific plan.

6. The Justice Department, Missouri Board of Education, State of Missouri, Commissioner of Education of Missouri, entered the suit in the summer of 1977.

7. A bi-racial citizens committee was formed to help find a solution to reduce racial isolation.

8. On April 12, 1979, the district issued its decision in the case. It found the Board of Education had not intentionally through any of its policies or actions caused the school system to be segregated.

9. Decision of the lower court was appealed by the Concerned Parents of North St. Louis.

10. The Eighth U.S. Circuit Court of Appeals released its opinion that overruled the ruling of the district court on March 3, 1980. The St. Louis Public Schools were mandated (ordered) by the Appeals Court to develop a plan that would desegregate the entire system, this Plan was due in the district court on May 2, 1980.

11. Hearings were held.

*Events and actions listed are not in chronological order of their occurrence.

GUIDELINES ESTABLISHED BY THE EIGHTH CIRCUIT FOR THE DESEGREGATION PLAN

THE SOLUTION (REMEDY)

1. The solution is required as system-wide and cannot be voluntary.
2. An integrated system must be developed and started promptly.
3. The Plan must be ready for the court by May 2, 1980.
4. The Plan is to be started no later than the beginning of the 1980-1981 school year.

STEPS TO USE IN DEVELOPING A PLAN

1. The principal responsibility for developing and starting the plan is placed upon the Board of Education of St. Louis.
2. In fulfilling this responsibility, the Board shall work with the following persons:
   (a) The parties to the case
   (b) A broadly based interracial citizens committee
   (c) An expert

MAJOR REQUIREMENTS

1. Presently integrated schools shall remain as they are.
2. A school with a black enrollment of between 30% and 50% is considered integrated.
3. These proportions to stay in effect, if possible, for five years.
4. Remaining white schools - over 70% white - shall be integrated with black schools to provide an enrollment of 30% - 50% black.
5. Burden of integration to be borne as equally as possible by each race.
6. Schools which are not touched by these provisions, namely the all black schools in North St. Louis should offer special programs to insure "equal educational opportunities." The following may be used to achieve this purpose:

(a) compensatory and remedial programs
(b) programs providing less than full-time integrated learning experiences
(c) exchange programs with suburban school districts.
(d) maintaining and adding to magnet and specialty schools
(e) establishing educational parks
(f) expanding permissive transfer policy.

7. Steps must be taken to insure that the school personnel be integrated at every level.

Appellate Court Hears City Schools' Desegregation Arguments

Southside Journal

By Grace Schneider

The St. Louis city school desegregation case came a step closer to a conslusion at a hearing in the 8th U.S. Circuit Court of Appeals.

Attorneys representing various groups against the board of education attempted to reverse an earlier court decision finding the board innocent of deliberately segregating black students. School board attorney John Lashly argued in favor of upholding the ruling issued in April 1979 by U.S. District Judge James Meredith.

Richard Fields, representing the National Association for the Advancement of Colored People and Brian Landsberg of the U.S. Justice Department remained firm in their previous requests that the court find the board of education in violation of the constitutional rights of city school students because there is no system-wide desegregation program.

BOTH CLAIMED that although certain St. Louis city schools are integrated, the majority of the students in predominately black North St. Louis or primarily white South St. Louis have experienced very little — if any — integration efforts by the school board.

The court case began in 1972 when black parent Minnie Liddell brought a civil rights action against the school board for unlawful segregation of students. Mrs. Liddell and her attorney, William P. Russell, still maintain the school system, eight years after the beginning of the court case, is not doing enough to insure an integrated environment in the schools.

Under a consent decree issued in 1975, the district agreed to begin several programs — in particular, the Magnet School program — to encourage voluntary integration in the public schools. However, the Liddell party, the NAACP and the Justice Department believe the school system should be forced by the court to initiate broader, more far-reaching desegregation efforts.

FIELDS, FOR EXAMPLE, told the court the system should be ordered to bus some 25,000 to 30,000 students so predominantly black or white schools have a higher minority percentage. Under the NAACP's plan, the district should begin formulating the program within 30 days of the court's ruling in order to "have a plan in place by the 1980-81 school year."

"It is extremely important that a remedy go into effect right away," Fields told the seven-judge panel.

Russell for the Liddell party, on the other hand, suggested an alternative desegregation plan. Children from kindergarten through the third grade should attend their neighborhood school, while children in the upper grades and in the high schools would be transferred to achieve greater racial balance in the system, he said.

Another intervening plaintiff, the Concerned Parents for Neighborhood Schools represented by Anthony Sestric, presented yet another contention to the court.

The Concerned Parents favored Judge Meredith's decision finding the system innocent. However, the group filed a cross-complaint in the case. Sestric contends that admission regulations for the magnet schools are discriminatory to white students because for every one white child accepted, five other black children must be admitted first.

"This is blatantly discriminatory," Sestric said

During the course of the three-hour hearing, the judges often interrupted the attorney's arguments to ask questions or throw out a fact or case name. The judges' inquiries and comments clearly indicated they expected arguments strong enough to justify reversing the district court's decision.

Questions ranged from demographic changes in the City of St. Louis to how long it takes a school bus to travel from one end of the city to another.

In defense of the school board, attorney John Lashly argued that as soon as the Brown vs. the Topeka Board of Education decision was issued in 1954, the school district began a desegregation effort. Since that time, however, housing patterns and the loss of the city's white population have accounted for resegregation among black and white students. The school system now has about 67,000 students, 75 percent of whom are black.

TO COMPLETELY desegregate the schools in the City of St. Louis is next to impossible," Lashly said.

The seven judges will meet and discuss the case and issue an opinion within the next month to six weeks. Usually the court convenes with three judges but seven heard this case, an indication many believe shows how seriously the court views the controversial desegregation issue. The case is expected to advance to the Supreme Court.

Despite solemnity of the hearing, there were lighter moments. Toward the end of arguments, one of the microphones sent a deafening blast of feedback through the courtroom.

When all returned to normal, District Judge Donald P. Lay, quipped that he thought it was caused by Judge Myron Bright's hearing aid.

"No," said Bright, "I turned it off a long time ago."

CITY SCHOOLS MUST INTEGRATE

By Edward H. Kohn
Of the Post-Dispatch Staff

The St. Louis Board of Education was ordered today to begin work immediately on a new systemwide plan to desegregate the city's public schools.

In a unanimous, bluntly worded 53-page opinion, the seven judges of the 8th U.S. Circuit Court of Appeals reversed a ruling on April 12, 1979, by Senior U.S. District Judge James H. Meredith.

The Court of Appeals gave the go-ahead for busing of the city's schoolchildren if necessary to achieve racial integration, a step that Meredith had ruled was unnecessary. It ordered the Board of Education to pay for any such busing.

Robert E. Wentz, St. Louis school superintendent, met today with attorneys for the School Board to decide whether the ruling would be appealed to the U.S. Supreme Court.

Gordon L. Benson, president of the School Board, said he was unsure whether the ruling would be appealed. "The board certainly is going to discharge its legal obligations," he said.

Benson said that the board had once submitted different desegregation plans to Meredith, but that none had included the possibility of busing students across school district lines to achieve racial balance.

However, Benson said that if the Court of Appeals had mandated a strict balance of equal numbers of black and white students in city schools, "I don't see how you can do anything but involve some of the (St. Louis) county districts." He said city schools have an overall enrollment of almost 75 percent black students.

Meanwhile, an attorney for the National Association for the Advancement of Colored People hailed the ruling as a "complete victory."

The Court of Appeals suggested — but did not require — that the School Board consider "developing and implementing a comprehensive program of exchanging and transferring students with the suburban school districts of St. Louis County."

The appellate court rejected as "too little, too late" a School Board proposal to desegregate the schools in the next four to seven years. It said the board must meet a "constitutional requirement to desegregate now."

The court said Meredith had "erroneously held that the establishment of a neighborhood attendance policy fulfilled the (School Board's) 'affirmative duty to take whatever steps might be necessary to convert a unitary system in which racial discrimination would be eliminated root and branch.'"

It said there was ample evidence of "segregative intent" on the part of the School Board dating back to the mid-1950s, when desegregation first was ordered as part of a neighborhood schools program.

"The 1955-56 high school attendance zones were drawn so as to correspond, with remarkable consistency, to the racially identifiable residential neighborhoods in the city. Elementary school boundary lines were drawn in a similar fashion," the court said.

"The result was inevitable and unquestionably foreseeable .... The black schools remained predominantly black and the white schools remained predominantly white, with very few exceptions."

Attorneys for the NAACP and the Concerned Parents of North St. Louis, who filed the original suit against the School Board, were jubilant over the Court of Appeals ruling.

"As far as I can tell, it looks like a complete victory," said Richard Fields of Memphis, Tenn., the NAACP attorney who argued the case before Meredith.

"I think the important part is that the board must come up with a plan within 60 days," said Fields. "It's very heartwarming."

Fields said he thinks that the board should accept the NAACP's plan for a black student racial balance of between 50 percent and 75 percent at each St. Louis school. Cross-district busing of students probably would not be a workable solution, but voluntary transfers of students across school district lines might be, he said.

Joseph S. McDuffie, attorney for the North Side parents' group, said the Appeals Court decision was "very good."

"I hope really that we can sit down with the School Board and draw up a plan and implement it," McDuffie said. "In my opinion, almost everything in the District Court opinion (Meredith's) was wrong."

The Rev. John Doggett, president of the St. Louis chapter of the NAACP, said he was not surprised by today's ruling. But he said his satisfaction with the ruling was tempered by the fact that St. Louis schoolchildren have suffered while the suit has made its way through the courts.

"There's no joy in any of this," Doggett said. "The tragedy is that the Board of Education must have spent millions of dollars on the suit — money that should have been going for teachers' salaries and to maintain schools.

"It's just so unfortunate. The bottom

line is that the children have had to suffer because of the recalcitrance of the Board of Education, dominated by conservative, racist leadership."

Doggett said he expected the board to appeal the ruling to the U.S. Supreme Court. "By the time the fight is over, the financial picture of the Board of Education will be so dim that it will take another 10 years to recover," he said.

"The blame for this fiasco must rest squarely on the shoulders of the Board of Education for prolonging what is inevitable — that desegration must become the order of the day."

The Court of Appeals sent the case back to Meredith with these instructions:

(1) The Board of Education is to be given the primary responsibility of developing a "comprehensive plan" to integrate the city's schools. The board is to work with all the parties in the 8-year-old suit, a new interracial committee to be appointed by Meredith and desegregation experts to be named by Meredith.

The board must submit its plan within 60 days, barring an appeal to the U.S. Supreme Court, and Meredith must review the plan promptly. The new plan is to be put into effect "no later than the beginning of the 1980-81 school year" under the judge's direction.

(2) "Voluntary techniques will not effectively desegregate the St. Louis school system," the appellate court said, so that the board must devise a "systemwide plan for integrating the elementary and secondary schools." It said that either of two plans proposed earlier may be considered, but that either would have to be modified.

(3) The School Board must work to eliminate single-race schools in north St. Louis, and is to seek financial assistance from the state and federal governments. Among the techniques that the board may consider are:

— Developing compensatory educational programs.

— Developing programs "providing less than full-time integrated learning experiences."

— Developing exchange programs with school districts in St. Louis County.

— Maintaining and expanding magnet schools.

— Establishing an educational park.

— Continuing and expanding a policy of permissive transfers.

(4) The School Board was barred from permitting transfers that would increase segregation in either the sending or receiving school.

(5) The board must pay transportation costs. The court noted that some federal aid is available for this under the Emergency School Aid Act and that limited state aid also is available.

(6) Meredith must assure that future school construction and abandonment are not used to "perpetuate or re-establish the dual system." The judge must approve all School Board building plans not contemplated in the yet-to-be-proposed plan.

(7) Meredith must retain jurisdiction in the case to ensure that the appeals court's orders are carried out. He is to require periodic reports on the plan's progress for at least three years.

The Court of Appeals opinion was written by all seven regular judges. They are Chief Judge Donald P. Lay of Omaha, Neb., and Circuit Judges Gerald W. Heaney of Duluth, Minn.; Myron H. Bright of Fargo, N.D.; Donald R. Ross of Omaha; Roy L. Stephenson of Des Moines, Iowa; J. Smith Henley of Harrison, Ark.; and Theodore McMillian of St. Louis.

Observers said the court acted with unusual speed, especially for a case in which all seven judges participated. The case was argued only six weeks ago; it usually takes four months or more for the full court to publish its opinion.

The judges began their opinion with a brief review of measures that the Board of Education has taken since the desegregation complaint was filed eight years ago by Minnie Liddell and a group of black parents.

The opinion noted that the board has adopted a faculty desegregation plan and has opened several specialized and magnet schools, some of which are integrated.

But, the court said: "These steps, while meaningful, are not adequate to disestablish the existing segregated school system. Something more is clearly required.

"We thus have no alternative but to again remand this matter to (Meredith) with directions to require the Board of Education, in consultation with the parties, a qualified expert and an interracial committee selected by (Meredith) from [illegible] elements of the community, to develop and implement a plan that will integrate the St. Louis public schools."

Robert Kelly and Marjorie Mandel of the Post-Dispatch staff also contributed to this story.

School Case - 15 -

Here Not Uniqu

By Martha Shirk
Post-Dispatch Washington Bureau

WASHINGTON.

WHEN THE MEMBERS of the St. Louis Board of Education decide whether to appeal a federal court's order to desegregate the St. Louis schools, they'll have to face one incontrovertible fact: the Supreme Court no longer suffers segregated schools.

Since its landmark 1954 decision in a case called *Brown v. Board of Education*, the Supreme Court has ruled almost invariably in favor of the plaintiffs in school desegregation cases. And each time it has acted to refine the Brown decision, it has reiterated the message that segregated schools are unconstitutional and must be desegregated — now.

The Board of Education has until June 2 to ask the Supreme Court to review last Monday's unanimous desegregation order from the 8th U.S. Circuit Court of Appeals. Since the court's ruling requires a desegregation plan to be in force by May 1, however, the board is likely to make a decision much sooner. The board voted Wednesday to begin work on the plan, but held open the possibility that it would appeal to the Supreme Court.

Several constitutional scholars interviewed by the Post-Dispatch gave the St. Louis case no chance for being accepted for review by the Supreme Court. They noted that the case raises no novel legal issues and hence would not offer the court an opportunity to expand upon its previous decisions.

BEYOND THAT, many persons believe that the appellate court's opinion is a perfect mirror of the Supreme Court's thinking on desegregation. A decision by the court to review it might be viewed in educational circles as a signal that the justices were pondering altering their previous position. Because such a signal could slow down desegregation efforts across the country, the Supreme Court is considered unlikely to send one out.

"The only reason for the Supreme Court to take a case is if it poses some new legal issues or there are some new factual circumstances that require revisiting of old legal principles," said Thomas Atkins of Boston, special counsel on school desegregation for the National Association for the Advancement of Color People. "Neither is present in St. Louis."

Bruce E. Fein of Washington, a constitutional scholar who annually writes a book about Supreme Court trends for the American Enterprise Institute, said:

"The reading I have from the court's last term is that it isn't in the mood to upset its status quo. Although the justices are no longer moving forward with unimpeded confidence that they are going in the right direction, for each hesitant step backwards they take two steps forward in liberalizing the scope of segregation remedies and authorizing broad intervention by district courts. They seem strongly disinclined now to get too involved themselves with how to remedy segregation."

THE COURT'S 1954 *Brown* decision marked the end of a 58-year-long era of "separate, but equal" treatment for blacks in the public schools. It said in *Brown* that separate was "inherently unequal" and that segregation "generates a *feeling of inferiority*" in children "as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone."

A year later, the court issued guidelines that told school officials to desegregate schools with "all deliberate speed." But for the next 10 years, as the lower courts filled up with desegregation cases, it said very little on the subject.

In 1964, however, as the civil rights movement emerged as a powerful force, the court ended its silence. It said that there had been "too much deliberation and not enough speed" in desegregation efforts, and forbade school districts to shut down their schools rather than desegregate. And four years later the court said that schools must do more than end official segregation; they must take affirmative steps to eliminate racial discrimination "root and branch."

But it has only been since 1969, when Warren E. Burger replaced Earl Warren as chief justice, that the court has dealt extensively with the problem of how to remedy segregation.

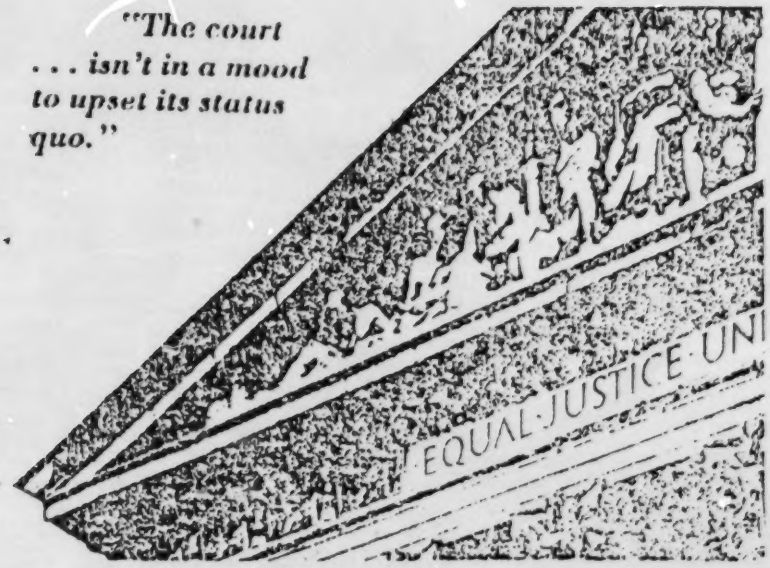
IN GENERAL, Fein notes, "the court has deferred to the lower courts to devise remedial decrees that promise to work."

Among the remedies that have the court's official imprimatur are intra-district and cross-district busing; racial balance quotas; drastic gerrymandering of school districts; remedial courses for minority students, and special testing, training, and counseling programs for minorities.

These remedies have been approved even though they may be "administratively awkward, inconvenient and even bizarre in some situations," the court has said.

The remedies available to the lower courts are not without limits. Since 1974, the court has insisted that the scope of the remedy not exceed the extent of the violation; in particular,

"The court . . . isn't in a mood to upset its status quo."



systemwide remedies have been ruled out when segregation affects only part of a system.

ALTHOUGH THE COURT has sanctioned cross-district busing on occasion, it has found it to be inappropriate unless all of the districts involved contributed to the segregation. If this precedent were to be applied by a court to the St. Louis situation, it would seem to preclude busing students between city and St. Louis County schools without proof that the county districts had contributed to the segregation of the city schools.

The Supreme Court has also been loathe to impose quotas on individual schools. In the case of *Swann v. Charlotte-Mecklenburg County Board of Education*, the court held that a district could could not require "as a matter of substantive constitutional right" any specific degree of racial mixing. "The constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole," Burger wrote in the unanimous decision.

In that same decision, the court allowed for some single-race schools to continue under a desegregation plan.

In the court's most recent desegregation opinions, the standards set two decades ago for determining liability for segregation were essentially affirmed.

IN ITS JULY 2 decision in *Columbus Board of Education v. Gary L. Penick*, the court held the Columbus school board accountable for segregation in the district for allowing an enclave of all-black schools to exist. "Proof of purposeful and effective maintenance of a body of separate black schools in a substantial part of the system itself is *prima facie* proof of a dual school system," the court said.

In a decision the same day in *Dayton Board of Education v. Mark Brinkman*, the court affirmed the "affirmative duty" of school districts to eliminate systemwide segregation through systemwide remedies. "The measure of the post-*Brown* conduct of a school board under an unsatisfied duty to liquidate a dual system is the effectiveness, not the purpose, of the actions in decreasing or increasing the segregation caused by the dual system," the court said.

Although the court spoke with one voice in most of its early desegregation decisions, in recent decisions it has not acted with unanimity. Justices Lewis F. Powell Jr., Potter Stewart, and William H. Rehnquist have frequently dissented because of concerns that courts' desegregation actions could cause whites to flee the affected school districts and result in resegregating them.

"A court must act decisively to remove purposeful segregation, but it also must avoid the danger of inciting residential resegregation by unduly disrupting the public schools," the three said in their most recent dissent. "Unless courts carefully consider those issues, judicial school desegregation will continue to be a haphazard exercise of equitable power that can, like a loose cannon, inflict indiscriminate damage on our schools and communities."

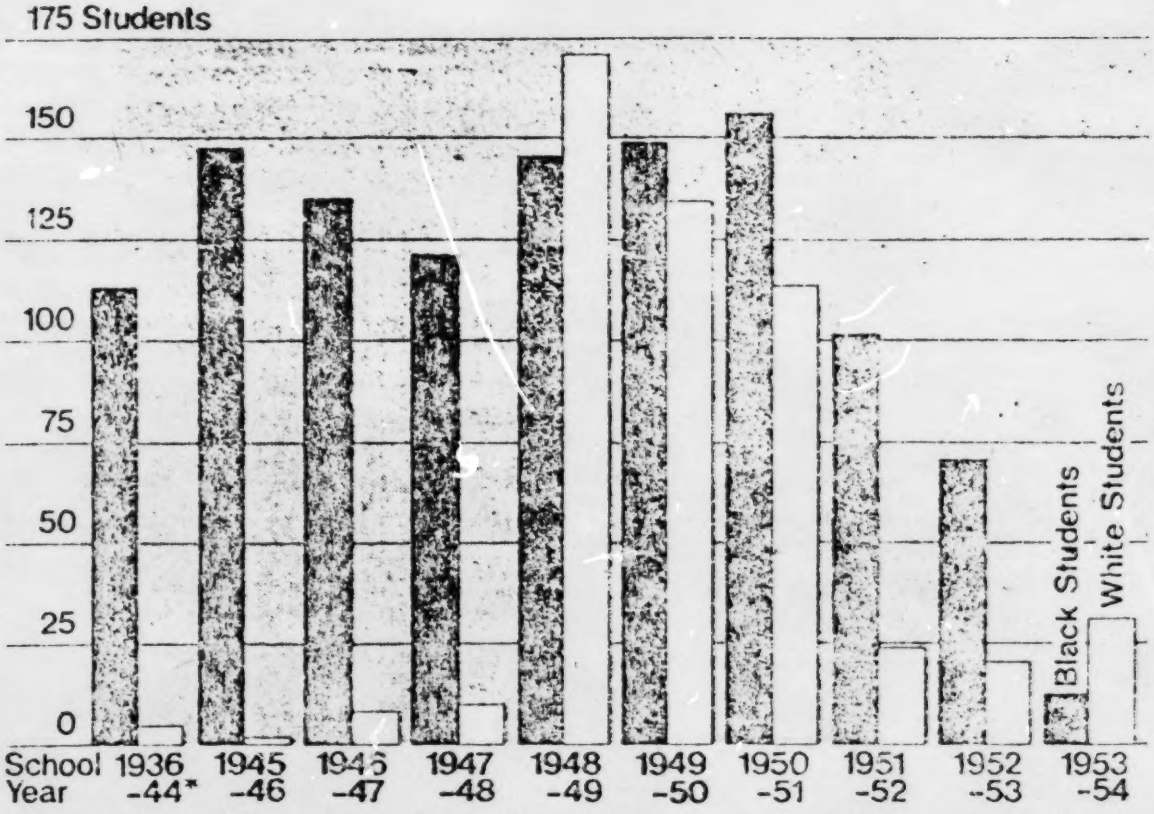


Chart shows number of students bused to St. Louis schools from outlying districts between 1936 and 1954.

1. According to the chart above, what three years witnessed the largest number of blacks being transported from the county to the city?

2. Approximately how many blacks were transported during the years that had the most transporting?

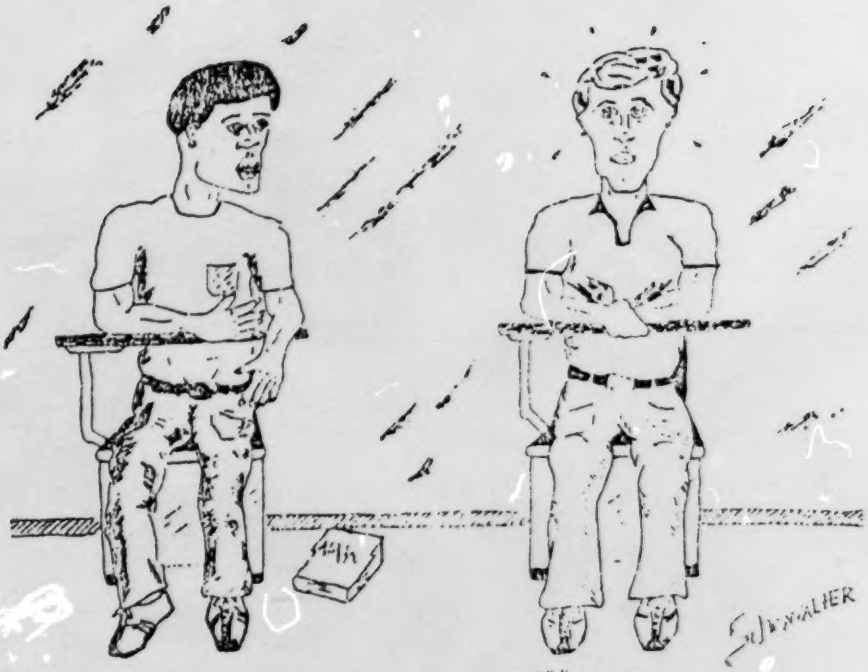
3. What year were the most whites transported from the country to the city?

4. What year were the least number of white students transported from the county to the city?

Overload

DE FACTO
DE JURE
SCHOOL BUS
SCHOOL BUS

CARTOON # 8



"AREN'T YOU GLAD THEY BUSED YOU HERE?" "NOW BOTH OF US WILL GRADUATE WITHOUT KNOWING A THING!"

Study Guide of terms and names of individuals associated with the Desegregation issue in St. Louis.

desegregate:	to abolish racial segregation
integrate:	to open to people of all races or ethnic groups without restriction
appeals court:	the transfer of a case from a lower court to a higher court for a new hearing.
defendant:	a person against whom an action is brought.
appellant:	one who appeals a court decision.
neighborhood school plan:	a school that serves a specific geographic area - usually in fairly close proximity (distance) to that school.
segregate:	to separate or isolate from others.
dual system:	a separate school system (buildings, staff, teachers) for blacks and whites. Usually operated under a central administration.
unitary system:	A school system operated for all students. There isn't any separation of races.
plaintiff:	the party that institutes a suit in a court.
dejure segregation:	segregation resulting by law
defacto segregation:	segregation resulting by fact or reality.
Brown v. Board of Education: (Topeka, Kansas)	the case that paved the way for desegregating those public schools not integrated.
litigant:	one who is engaged in a lawsuit.
repealed:	to revoke or rescind.
discriminate:	to act on the basis of prejudice.
certiorari:	a writ (a written order) from a higher court to a lower one requesting a transcript of proceedings of a case for review.
amicus curiae:	a person invited to advise a court on a matter of law in a case in which he is not a party.
demographic:	the study of the characteristics of human populations as size, growth, density and distribution.

hearing:	a session at which testimony is taken from witnesses.
injunction:	a court order enjoining or prohibiting a party from a specific course of action.
intact busing:	students are bused by either grade or room to another school for the entire school day. These students remain together, they do not join the students at the receiving school for any activities.
block busing:	students from entire blocks or a specific block are bused to another school and become part of that schools total program.
Anthony Sestric:	attorney for the Concerned Parents for Neighborhood Schools.
Minnie Liddell:	mother of the original litigant in the action brought against the St. Louis Board of Education.
James Meredith:	federal judge who presided at the case on the district level.
Robert Wentz:	current superintendent of the St. Louis Public Schools.
Citizens Committee:	Committee of Citizens of St. Louis to help the St. Louis Board of Education to develop a Plan to desegregate the systems schools.
Internal Committee:	Committee appointed by the superintendent of schools to help to develop a Plan to desegregate the systems schools.